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Drawings

Figure 3 has been amended to show a cross-section only for the end portions, i.e. brackets 32 of the insert. The remainder of the insert is shown in plan.

Claim Objections

Claims 2 - 4, 15, 20 - 13 and 27 have been amended to correct the noted informalities.

Claim Rejections - 35 USC § 112

Claims 3, 5 - 7, 13, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, the reference to the square opening has been deleted;

Claim 5 has been cancelled and the subject matter thereof incorporated in claim 4 whereby the compounds of the ornamental insert of claim 4 are "adapted" to seat on the intermediate rail top surface and to abut the top rail bottom surfaces whereby the fence insert "can be" vertically retained;

Claims 6 and 7 have been made dependent on claims 4 and 6 respectively;

Claim 13 has been cancelled;

Claims 20 and 21 have been made amended for deletion of "ornamental fence insert for".

It is believed the claims as amended now particularly point out and distinctly claim the inventive subject matter.

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Claim Rejections 35 USC § 102

Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Krauser, 7,774.

Claims 1 and 2 have been combined and the brackets and abutment surfaces are recited as being equi-distant from the insert center to fit into a square opening. Claims 4 and 5 have been combined and the brackets and abutment surfaces are recited as being equi-distant from the insert center to fit into a square opening.

Krauser discloses an iron railing having palings (ornamental inserts) with a foot or lug at the top or bottom "a-a" as shown in Figures 1, 2 and 11. The palings are secured to the railings by a number of separate tubes having half shoes "p-p" formed at the ends "b-b" of the tubes which are strung on iron rods "m-m" (col. 1, lines 14 – 49).

The feet "a" are secured by pushing the half shoes "p" over the shoes "b", thus necessitating a complex securing structure, which the present invention avoids.

Figure 5 of Krauser shows a transverse section of the tube iron rods "H, H", and paling, which are locked together by insertion of feet "a" in longitudinal slots formed in the tubes for securement at "n, n" (col. 3, lines 2 – 18).

It is difficult to relate Figure 5 to Figure 11 but, with reference to marked-up Figures 5 and 11, it is believed brackets "n" (Figure 5) relate to the walls of longitudinal slots formed in the tubes, through which the feet "a" project, and brackets "n" (shown above "b" in Figure 2) grip feet "a".

Krauser accordingly does not anticipate file claim 1, and clearly does not anticipate claim 1 as amended.

Claim 2 has been cancelled.

Claim 3 relating to circular, astroidal, diamond-shaped, cross-shaped and elliptical-shaped inserts is not anticipated by Krauser, which shows none of these shapes. Krauser

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shows an ornate multi-ring structure standing upright.

Claims 4 – 8, 12 – 14, 20 and 26 – 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hainsworth, 386,124.

Hainsworth discloses a scroll-work consisting of a plurality of corrugated rings (scrolls B) in various patterns joined by loops CC together and to a frame A (Figure 1). It is stated in col. 1, lines 30 – 40, that the loops are placed over the scrolls at the points where they touch and the loops closed by an “angular joined tongs”, as shown in Figures 5 and 6.

The Hainsworth scroll-work has no relationship to applicant’s picket fence inserts and, with reference to claim 4, to say that Hainsworth anticipates by showing an ornamental picket fence insert having a body A1 with brackets C (i.e. loops CC). So-called brackets C do not project outwardly from the body A1 but in reality are metal loops mechanically wrapped around abutting portions of rings (scrolls) B.

Claim 4 as amended clearly distinguishes over Hainsworth.

Claim 5 has been cancelled.

Claim 6 relates to a web of a pair of opposed side walls “defining a U-shape” (claim 4), compared to a “loop” (Figures 5 and 6 and col. 1, lines 21 – 25) of Hainsworth.

In claim 7, the overlap is less than one-half the thickness of the picket, compared to a full overlap of the loop of Hainsworth.

With regard to claim 8, Hainsworth shows a corrugated circular scroll for a scroll-work.

Turning to claim 12, Hainsworth does not show an elliptical-shaped insert.

Regarding claim 13, Hainsworth does not show a picket fence of any sort. Hainsworth shows a scroll-work comprising a plurality of corrugated scrolls joined

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together to form a planar patterned surface by metal bands (loops) using specially-designed pliers to form the loops (Figures 5 and 6).

As to claim 14, Hainsworth does not disclose a bracket C projecting outwardly from the perimeter of the insert body, but shows loops securing corrugated scrolls together and to a frame.

A basic advantage of applicant's picket fence is the avoidance of tools, including pliers and mechanical fasteners, for assembling the inserts and pickets together into a unitary structure having no mechanical connectors.

Claims 26 – 28 have been cancelled.

Claim Rejections – 35 USC § 103

Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Krauser.

Claim 4 as amended relates to an ornamental insert for a picket fence having square spaces defined by a plurality of pickets and rails, said insert having a body with a center and a perimeter, an upwardly facing abutment surface and a downwardly facing abutment surface formed on the perimeter of said body, said body having brackets projecting outwardly and horizontally from the perimeter of diametrically opposite sides of the body, each bracket having a pair of opposed sidewalls defining a u-shape for straddling and engaging said vertical pickets. The downwardly facing abutment surface is adapted to seat on said intermediate rail top surface and the upwardly facing abutment surface is adapted to abut with the top rail bottom surface whereby the fence insert can be retained, said brackets and abutment surfaces being equi-distant from the center.

Krauser, as discussed above, does not disclose or suggest this claimed structure.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hainsworth, 386,124.

Claim 21 pertains to a plastic insert and is dependent upon and relates to the

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ornamental insert of amended claim 1. Claim 1 is believed patentable over the cited art for the reasons discussed above and claim 21 is therefore believed patentable also.

Claims 15 - 19 and 22 - 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spera, 4,805,879, in view of Hainsworth, 386,124.

Spera discloses a hand railing having vertical pickets snap-locked to a top hand rail and a bottom rail. No ornamental inserts are shown or even suggested.

Hainsworth, as discussed above, does not relate to a picket fence, does not teach or suggest ornamental inserts to make a picket fence, and does not disclose or suggest an ornamental insert having brackets projecting outwardly and horizontally from the perimeter of the insert body. There is no disclosure or motivation in either reference to combine one with other.

Claim 16 has been cancelled.

Claim 17 has been made dependent on claim 15, which is now believed allowable over the prior art. In any event Hainsworth does not disclose the specified distance of less than one-half of a picket dimension.

Claim 18 has been made dependent on claim 15, which is now believed allowable over the prior art.

Claim 19 is dependent on claim 15 believed allowable.

Claims 22 and 23 depend on claim 15 and claims 24 and 25 are dependent on claim 19 which is directly or indirectly dependent on claim 15 believed allowable.

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It is believed the application now complies with all formal requirements and the claims as amended clearly patentably distinguish over the cited art. Favourable consideration and allowance accordingly are earnestly solicited.

Respectfully submitted,
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